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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
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IN RE: Fosamax Products Liability Litigation : Case No. 1:07-cv-6173-JFK  
1:06-md-1789 (JFK)  
This Document Relates to: :  
Victoria Roddy :  
v. :  
Merck & Co., Inc. :

**STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

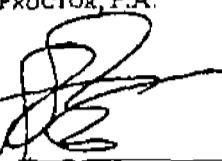
1. This case having been resolved upon the agreement of Plaintiff Victoria Roddy to voluntarily dismiss without prejudice her claims against Merck in the above captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs, is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).
2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in any United States Federal District Court, without joining any party whose joinder would defeat diversity pursuant to 28 U.S.C. §1332, and without opposing transfer to MDL-1789.

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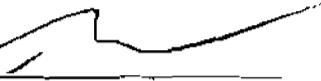
3. Each party is to bear its own costs and attorneys' fees.

Dated: March 9, 2008.

LEVIN, PAPANTONIO, THOMAS, MITCHELL,  
ECHSNER & PROCTOR, P.A.

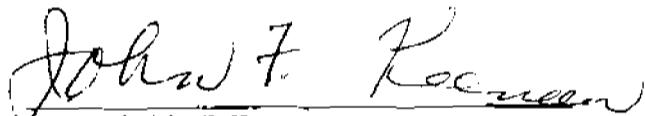
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IT IS SO ORDERED:

3/18/08

  
Honorable John F. Keenan

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